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May 17, 2024

VIA ECF

Honorable Andrew L. Carter
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Marin *et al* v. 310 Bowery Group LLC *et al*
No. 24-cv-1340

Dear Judge Carter:

We represent Plaintiff in the above-captioned matter. We write to respectfully request that the Court order Defendants to comply with the discovery requirements of the Court's April 5, 4024 Mediation Referral Order.

This case is a wage and hour class and collective action brought on behalf of restaurant employees under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* and New York Labor Law § 191 *et seq.* On April 5, 2024, the Court Ordered the Parties to schedule mediation within 60 days and to exchange documents/data. (DKT # 15). The data Defendants were ordered to produce includes (a) payroll records, (b) time sheets, (c) work schedules, (d) wage statements, and (e) wage notices. To date, Defendants have not produced any of the above-described documents other than Plaintiff's wage statements. Defendants have not produced tip-sheets (which are payroll records), schedules, and /or wage notices for Plaintiff or for Class Members. Defendants have also not produced any wage statements for Class Members.

We have addressed these deficiencies several times with Defendants by phone and email, but to no avail. As a result of the missing information, we are simply not able to engage in meaningful settlement discussions at mediation. For the foregoing reasons, we respectfully request that the Court order Defendants to within a week of this Order: (a) for Plaintiff, produce time sheets, work schedules, tip distribution sheets, and wage notices in their possession, and (b)

for Class Members, produce wage statements, time sheets, work schedules, tip distribution sheets, and wage notices, or to meet and confer with Plaintiff about a reasonable sampling of this data for Class Members sufficient for Plaintiffs to assemble a damages calculation.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ D. Maimon Kirschenbaum
D. Maimon Kirschenbaum

cc: All counsel (via ECF)